

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12688 of 2015

1. Prahlad Prasad
2. Dhrub Prasad, Both are sons of Late Sangam Lal Sah, Resident of Village - Sarisopahi, Police Station and Anchal - Pandaul, District - Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Madhubani.
3. The Circle Officer, Pandaul, Police Station and Anchal - Pandaul, District -Madhubani.
4. Sukh Deo Safi, Son of Jhari Safi, Resident of Village - Sarisopahi, Police Station -Pandaul, District - Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Prasad, Adv.
For the Respondent/s : Mr. Ajay- GA-12

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 03-08-2023 Heard learned counsel for the petitioners and learned counsel for the State.

2. The present writ petition has been filed for setting aside the notice dated 24.07.2015 contained in Memo No. 962 issued by the Circle Officer, Pandaul by which the direction has been made to the petitioners to remove their possession over the land bearing Khata No. 2081 , Plot No. 3810 and Area 17.1/2 decimal.

3. Counsel for the petitioners submits that the petitioners are in possession of the land and have title by virtue of Registered Sale Deed dated 22.04.1972 which they have purchased from one Abdul Hakim. Counsel submits that the said Abdul Hakim has purchased the said land by virtue of Registered Sale Deed dated 18.05.1943 from one Sir Lal

Thakur. Counsel further submits that the *Jamabandi* No. 1399 was created in favour of father of the petitioners since then, they are paying rent and subsequently, rent receipts were issued which is annexed as Annexure-2.

4. Counsel for the petitioners submits that they were very much surprised to receive the said notice.

5. Counsel for the State submits that the plot in question has been allotted to private respondent No.4 in the year 1973-74. Counsel submits that the said land is basically a ceiling surplus land and for the said land, Abdul Hakim, the vendor of the land neither raised objection under Section 5 of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 [Bihar Act 12 of 1962] (hereinafter referred to as ‘the Act of 1961’) nor the petitioners have availed remedy under Section 9 of the Act of 1961.

6. In response, thereof, counsel for the petitioners submits that petitioners are completely unaware that this land in question is the subject matter of the Act of 1961. In the notice also, it has nowhere mentioned that this land is the subject matter of the Act of 1961.

7. In this background that the petitioners are the purchaser of the land in question since 1972 and they are

residing on the said land since then, and their names are recorded in the records of right. Accordingly, this writ petition is hereby disposed of without setting aside the notice dated 24.07.2015. However, the petitioners are directed to file representation before the Circle Officer, Pandaul, Madhubani demanding all details including the ceiling case number and its order showing that the land in question is ceiling surplus land and, thereafter, they shall be at liberty to file objection.

8. It is directed to the Circle Officer, Pandaul, Madhubani that he shall pass order upon hearing all the affected parties including the private respondents of the writ petition and others, if any.

9. It is also directed that during pendency of the said representation, no coercive action shall be taken against the petitioners and *status quo* shall be maintained till disposal of the aforesaid representation.

10. With the aforesaid direction, the present writ application is hereby disposed of.

(Dr. Anshuman, J.)

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